

Remarks/Arguments

This is in reply to the official action of January 28, 2008. Allowance of claim 2 and claims 14-30 is noted with appreciation.

Claim 1 has been rejected under 35 U.S.C. 102 as being anticipated by U.S. Patent 6,235,014 to Abe et al. This rejection is improper and should be withdrawn.

Pending claim 1 is reproduced below with limitations not disclosed or suggested by Abe et al. in bold:

1. A device **for controlling functions of a microscope within a microscope system**, said device comprising: a stand base portion holding a microscope within the microscope system, **a central display integrated into the stand base portion, wherein the central display can be used to perform a plurality of settings of the microscope within the microscope system, to call saved settings of the microscope within the microscope system and to receive warning messages or notifications from the microscope within the microscope system, where the plurality of settings that can be performed includes at least one of objective selection and secondary magnification selection.**

NONE OF THE BOLD ITEMS IN CLAIM 1 ABOVE ARE DISCLOSED OR SUGGESTED BY ABE ET AL. !!

Abe et al. does not disclose or suggest anything at all concerning controlling functions of a microscope but rather discloses controlling a laser for eye treatment. Abe et al. certainly does not disclose or suggest a central display in the stand base portion that can be used to form a plurality of settings of the microscope or to call saved settings of the microscope. Abe et al. certainly does not disclose or suggest that settings that can be performed includes at least one of objective selection and secondary magnification selection.

The limitations of claim 31 have now been incorporated into claim 1 (as well as in other claims in slightly different language).

The Examiner states “Regarding claim 31, Abe does not specifically teach the display to control either objective selection or magnification selection.” The Examiner then simply states without any reference in support: “However, Abe discloses both of these functions in relation to a microscope. It would have been obvious to the ordinary skilled artisan at the time of the invention to use Abe’s display/control to control either or both of these functions in order to provide the user with convenient location of all of the controls of the system, thus making the system more efficient and compact.” The controls of Abe for a microscope are manual controls. This is thus **impermissible hindsight at its most egregious**. Abe et al does not disclose or suggest the use of a display to control microscope functions at all, yet the Examiner takes the unsupported hindsight position that it would be obvious to take manual controls from a microscope associated with the Abe et al. structure and incorporate them into a display that Abe et al only uses for treatment lasers. If the advantages are so clear, as the Examiner would have us believe, why did Abe et al. not actually incorporate microscopic controls into the display. The answer is clear, prior to the present invention, it was not obvious to one skilled in the art from Abe et al., to incorporate microscope controls into a display and certainly not within a microscope stand.

It is basic patent law that for a 35 U.S.C.102 anticipation rejection to be proper, each and every limitation must be disclosed by the reference. **Abe et al. doesn’t even come close !!!**

It is clear that claim 1 requires control of microscope functions as microscope functions would be understood by one skilled in the art. A “microscope” as defined in McGraw Hill’s Dictionary of Scientific and Technical Terms, 2nd edition, (1978) at page 1023 as “An instrument through which minute objects are enlarged by means of a lens or lens system”. The definition has not significantly changed since 1978. Reference may presently be had on-line to <http://en.wikipedia.org/wiki/Microscope>. “A microscope ... is an instrument for viewing objects that are too small to be seen by the naked or unaided eye.” (word origin information omitted).

It is therefore clear to any person of ordinary skill in the art that “functions of a microscope” or “settings of the microscope”, as in claim 1, must be for a microscope, i.e. relating to seeing minute objects, not for some unrelated or ancillary apparatus or function, e.g. changing intensity or direction of a laser for eye treatment.

The rejection is clearly improper and must be withdrawn !!

Abe et al is in fact irrelevant to the present invention that it should not be combined with any reference related to controlling functions of a microscope.

The Examiner has rejected claims 3 and 31 under 35 U.S.C. 103 as being unpatentable over Abe (et al) above.

Claim 31 has been canceled and its limitations have been incorporated into claim 1. Claim 3 being dependent upon claim 1 therefore also contains those limitations.

As has previously indicated that Abe et al. does not disclose or suggest anything at all concerning controlling functions of a microscope but rather discloses controlling a laser for eye treatment. Abe et al. certainly does not disclose or suggest a central display in the stand base

portion that can be used to form a plurality of settings of the microscope or to call saved settings of the microscope. Abe et al. certainly does not disclose or suggest that settings that can be performed includes at least one of objective selection and secondary magnification selection.

Claim 3 is therefore patentable over Abe et al. even if the “nested structure” limitations are completely disregarded. In addition, such a rejection, even if nested structures are considered, would be improperly presented because the Examiner would have to rely upon the Kojima and Lane et al patents not set out in the statement of the rejection.

Even if Claim 3 were not already patentable over Abe et al., as previously discussed, Kojima and Lane et al. in combination with Abe et al. still would not render claim 3 unpatentable under 35 U.S.C. 103. The Examiner heaps hindsight leap upon hindsight leap to come to her conclusions. Abe et al. does not disclose or a display in any form to control microscope functions, does not disclose a display to control objective selection or secondary magnification selection, and certainly does not disclose or suggest a display in a stand for a microscope to control microscope functions where such functions include objective selection or secondary magnification selection. To overcome all of these difficulties, the Examiner simply and conveniently says it would be obvious to do all of those things even though Abe et al makes no suggestion at all to do so. Neither Kojima nor Lane et al overcome these critical defects of Abe et al. Kojima suggests nothing at all about any kind of stand. The Examiner just says there must be one, even though a display can stand on its own without any identifiable stand. Kojima suggests nothing about incorporating a display into the undisclosed stand. The Examiner simply says it would be obvious to incorporate a display into the undisclosed stand. Kojima says

nothing about any kind of stand to hold a microscope. This is no problem for the Examiner who simply says that it is obvious to incorporate a display into an undisclosed stand holding the microscope as opposed to an undisclosed stand for the display. Lane et al. doesn't have anything to do with a microscope at all. A microscope is not even mentioned.

Claims 1-3, 14, 15, and 31 have been rejected under 35 U.S.C. 102(b) as anticipated by or in the alternative, under 35 U.S.C. 103(a) as obvious over Kojima in view of Sato.

This rejection is incomprehensible. Is the rejection under 35 U.S.C. 102(b) "over Kojima in view of Sato"? If so that rejection is improper on its face.

If the 102 rejection based upon Kojima alone, the 102 rejection is also improper.

As previously mentioned, Kojima suggests nothing at all about any kind of stand. The Examiner just says there must be one, even though a display can stand on its own without any identifiable stand. Kojima suggests nothing about incorporating a display into the undisclosed stand. The Examiner simply says it would be obvious to incorporate a display into the undisclosed stand. Kojima says nothing about any kind of stand to hold a microscope. This is no problem for the Examiner who simply says that it is obvious to incorporate a display into an undisclosed stand holding the microscope as opposed to an undisclosed stand for the display.

This is clearly an improper 35 U.S.C. 102 (b) rejection.

Even under 35 U.S.C. 103, the rejection is clearly improper. Sato has a display to view microscope conditions but absolutely nothing can be inputted using the display. All functions of the microscope are controlled by manual knobs, switches or a keyboard. This reference teaches completely away from the present invention that eliminates many of the "keyboard, switch,

manual control” problems of Sato and nothing in either Sato or Kojima or their combination suggests the present invention that requires **a central display integrated into the stand base portion, wherein the central display can be used to perform a plurality of settings of the microscope in all claims.** Since all subclaims are patentable for the reasons given for parent claims, the details with respect to subclaim limitations will not be specifically addressed.

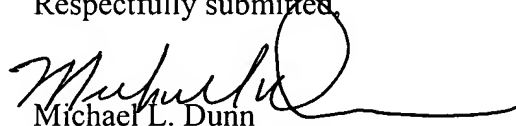
It should be stated in general, however, that regardless of dismembered nested relationships, there is no disclosure or suggestion in any of the cited art or its combination of the use of a display integrated into a microscope stand for controlling microscope functions and certainly not in the form of a display to display main, sub-main, and submenus whether nested or not. There is no support at all in the cited art of their unique use in conjunction with microscopic functions in a display conveniently embedded into a microscope stand. The use of such a system to control microscopic functions using a display within a microscope stand is unique and unobvious to one skilled in the art.

The rejections should be withdrawn. Further since allowance of pending claims provides linking claims for those claims that have been withdrawn, all withdrawn claims should be rejoined.

Conclusion

Applicant therefore respectfully submits that all pending claims are now in condition for allowance, which action is courteously requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael L. Dunn", with a large, stylized loop at the end.

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